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SEP 27 2008

LORETTA A. PRESKA
U.S. DISTRICT JUDGE
S. D. N. Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
PROBATION DEPARTMENT

P#49540

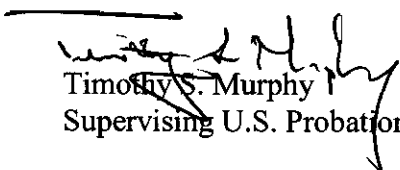
TO: Honorable Loretta A. Preska
U.S. District Court Judge

FROM: Timothy S. Murphy
Supervising U.S. Probation Officer

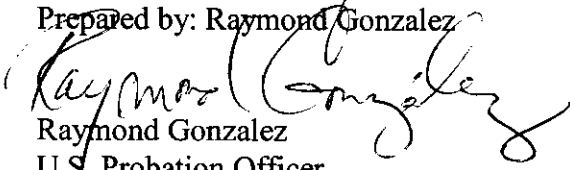
RE: Jesus Silva-Cruz
Docket No. 07 CR 577(LAP)

Enclosed is a matter from the U.S. Probation Office requesting a decision from Your Honor. Please direct your response along with any attachment to our office at 233 Broadway, 14th floor, so we may take appropriate action.

Respectfully submitted,


Timothy S. Murphy
Supervising U.S. Probation Officer

Prepared by: Raymond Gonzalez


Raymond Gonzalez
U.S. Probation Officer
212-805-5124

DATE: August 25, 2008

SUMMARY OF COMPLIANCE WITH SUPERVISION CONDITIONS

Silva-Cruz was initially compliant with the rules and regulations of CURA. This USPO maintained correspondence with Silva-Cruz's counselor, Edwin Cruz, to keep abreast of the offender's compliance with treatment.

On March 5, 2008, this officer was notified that Silva-Cruz's was found to be fraternizing with another resident in violation of program policy.

Upon being confronted with by his counselor, Silva-Cruz became very angry and loud with the program's staff. Silva, who has been diagnosed to have anger control issues, was subsequently contacted by this officer in attempt to address his behavior.

The offender was cautioned that his propensity to react in a volatile manor would result in a discharge from the program. Specifically, Silva-Cruz was informed that his over-reaction to being confronted regarding his non-compliance was the primary concern to the staff at CURA, not the initial rules infraction.

On April 17, 2008, this officer was notified by staff, that after being given one more chance to comply with treatment at CURA, Silva-Cruz left treatment against clinical advice on April 16, 2008.

Pursuant to a non-compliance letter received from CURA, "Mr. Silva was acting very disrespectful towards staff member Edwin Cruz, by demanding in a loud tone of voice, to know why his pass was denied. Again in a loud voice, he told staff that he did not want to hear any stories regarding his pass being denied because he was going out on pass no matter what anyone said. Staff attempted to calm him down, but he continued speaking loud and started to swing his arms around while demanding his money." Despite attempts to dissuade him from leaving treatment, Silva-Cruz left treatment that day against clinical advice.

On May 7, 2008, Silva-Cruz attended a case conference before Your Honor to address the above-mentioned continued non-compliance. The Court was advised that though Silva-Cruz had been addressing his substance abuse issues at CURA, that anger management had become the prevalent issue for the offender. Due to the new issues at hand, the Court amended Silva-Cruz's conditions to include a mental health condition and mandated the offender to attend anger management counseling.

Silva-Cruz was referred to Daytop Village for anger management treatment on May 19, 2008. Silva-Cruz has complied with treatment since the aforementioned date.

RECOMMENDATION AND JUSTIFICATION

On August 5, 2008, this officer was advised by Daytop Village that Silva-Cruz's counselor, though a certified counselor, did not have the qualifying experience to provide anger management counseling. The aforementioned, in conjunction with a lack of a Spanish speaking counselor at Daytop with the appropriate credentials and experience, has resulted in the re-referring of Silva-Cruz to SCAN-NY who can provide the Court mandated treatment.

At this time, we respectfully request that the status conference scheduled for September 10, 2008, be adjourned until a date in December 2008, to allow the officer more opportunity to assess Silva-Cruz's adjustment to anger management treatment. To date, there have been no new issues of non-compliance. The officer will be receiving monthly status reports from the treatment program. Additionally, the officer will visit the program, a minimum of once a month, to discuss the offender's treatment progress with his counselor.

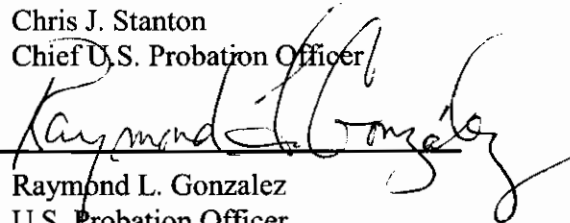
Clearly, should any new non-compliance issues arise before that date, the Court will be notified for immediate action.

Should there be any questions regarding this request, the USPO may be contacted at 212 805-5124. If the Court grants this request, the USPO will advise the Assistant U.S. Attorney and Defense Attorney assigned to the case.


Respectfully submitted,

Chris J. Stanton
Chief U.S. Probation Officer

by


Raymond L. Gonzalez
U.S. Probation Officer
(212) 805-5124

Approved By:


Timothy S. Murphy
Supervising U.S. Probation Officer

Date 8/25/08

(212) 805-0035

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
PROBATION OFFICE**

Judicial Response

☒ Court approves U.S. Probation Officer's recommendation and schedules the next Court date for

Date: December 10, 2008

Time: 10:00 a.m.

Place: Courthouse 1A
500 Pearl Street
NY, NY 10007

The Court Orders:

☐ Appearance by all parties on September 10, 2008.

☐ Other _____

Loretta A. Presley

Signature of Judicial Officer

August 28, 2008

Date